IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

Bail Appl..No. 4499 of 2007()

CP.176/2005 of J.M.F.C.-II,TRIVANDRUM
.....

(CRIME NO.232/2005 OF PEROORKADA POLICE STATION)

: PETITIONER/IST ACCUSED

SUDHEER.A., S/O.ABDUL VAHID, NILAM
NIKATHIYA PURAYIDAM, PLAMOODU, PATTOM P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.D.KISHORE

RESPONDENTS: STATE & COMPLAINANT
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1. STATE OF KERALA, REPRESENTED BY ITS
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
PEROORKADA POLICE STATION,
THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No.4499 of 2007

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Dated this the 25th day of July, 2007

Petitioner faces indictment in a prosecution for the offences punishable, inter alia, under Section 308 I.P.C. Altogether there are three accused persons. The petitioner is the 1st accused. Investigation is complete. Final report has already been filed. Committal court has taken cognizance and registered the committal proceedings. The petitioner was not available for arrest, in the course of investigation. The learned Magistrate has issued coercive processes against the petitioner. The petitioner apprehends imminent arrest. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was on account of reasons beyond his control. The petitioner is willing to surrender before the learned Magistrate, but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He further prays that appropriate directions under Section 438 Cr.P.C may be issued in favour of the petitioner.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

4. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

/TRUE COPY/

P.A.TO JUDGE

(R.BASANT, JUDGE)

sj